

SEAN COBY, HOARD
Plaintiff,

VS.

JERIAL HARTMAN, HAROLD BROWN,
WILLIAM ORTEGA, ESPERIDION SALDIVAR,
Sued in their ~~Individual~~ Individual Capacities
and, JAMES TAYLOR, MARK NOOTH
DE CAPPS sued in their official and
Individual Capacities,
Defendants.

Case No. 2:13-cv-02161-AC
Hon. Magistrate Judge John V. Acosta.

AMENDED COMPLAINT

Filed

RECD 26 JUN '14 11:16 USDIC-ORP

GW

I.

- A. Have you brought any other action or appeal in a court of the United States while a prisoner?

Yes _____

No X

II.

- A. Place of confinement: Eastern Oregon Correctional Institution
2500 Westgate, Pendleton, Oregon 97801

- B. Is there a inmate grievance procedure in this institution?

Yes X

No _____

- C. Have you filed a grievance concerning the facts relating to this complaint?

Yes X

No _____

- D. Is the grievance process completed?

Yes _____

No _____

III.

Jurisdiction

- A. The court has jurisdiction over the plaintiffs claim of violation of Federal constitution rights under 42 U.S.C. §§ 1331(a) and 1343.
- B. The court has supplement Jurisdiction over the plaintiffs state law tort claim under 28 U.S.C. § 1367.

IV.

Parties

A. Name of Plaintiff: Sean Coby Hoard
 Security Identification No.: 17812791
 Address: 2500 Westgate
 Pendleton, Oregon 97801

B. Defendant Jerrial Hartman is employed as correctional officer at Snake River Correctional Institution. He is sued in his individual capacities.

Defendant Harold Brown is employed as sergeant at Snake River Correctional Institution. He is sued in his individual capacities.

Defendant William Ortega is employed as correctional officer at Snake River Correctional Institution. He is sued in his individual capacities.

Defendant ESPiridion Saldivar is employed as correctional officer at Snake River Correctional Institution. He is sued in his individual capacities.

Defendant James Taylor is employed as Operations and Policy Analyst 2 (Assistant Superintendent of Correctional Rehabilitation) at S.R.C.I. He is sued in his official and individual capacities.

Defendant Mark Nooth is employed as superintendent at Snake River Correctional Institution. He is sued in his Official and Individual capacities.

Defendant Joe Carps is employed as Inspector 3 at S.R.C.I. He is sued in his official and individual capacities.

V.

STATEMENT OF CLAIM

Claim I

Plaintiffs right to be free from Cruel and Unusual Punishment, Pursuant to the Sixth, Eighth and fourteenth Amendment to the U.S. Constitution Article I, Section 16 of the Oregon Constitution; and Plaintiffs right not to be treated with unnecessary rigor following arrest and during confinement in jail, Pursuant to Article I, Section 13 of the Oregon Constitution and constituted the tort of Assault and Battery and negligence under the law of Oregon.

Supporting facts

A. On December 21, 2012 at S.R.C.I at IME-15, defendant Ortega gave Plaintiff a broken state issued electric razor. Plaintiff asked Ortega if he can have a working razor. Defendant Ortega said "No. Keep it, Your gonna need it. I'll go talk to the Sgt." Defendant then walked away with a grin. During black checks plaintiff asked ~~defendant~~ defendant if he can talk to BHS (Mental Health). Around 1:00pm Plaintiff was called out for a room search. Plaintiff complied with defendants order to submit to restraints. While in restraints defendants Brown, Ortega, Saldivar escorted Plaintiff right outside his room facing the steel door. Defendants Brown, Ortega, Saldivar all started to conduct a room search. About 15 seconds later defendant Hartman showed up walking towards plaintiff with a grin. Defendant Hartman grabbed Plaintiffs T-shirt collar with a strong yank downward and towards defendant. Defendant kept repeatedly jerking Plaintiffs collar around causing Plaintiffs collar to be tight around his neck. Defendant was trying to provoke

the Plaintiff, trying to get the Plaintiff to react. Plaintiff knew where defendant Hartman's mindset was and asked defendant Hartman to please stop treating me with deliberate indifference. Defendant Hartman told Plaintiff that "I don't care, you get what you deserve." Defendant Hartman started to push Plaintiff's head around and threatening Plaintiff, stating "This is going to hurt." Defendant Hartman was trying to provoke and get a reaction out of the Plaintiff, by constantly harassing and threatening Plaintiff. Plaintiff again asked politely to defendant Hartman if he can "Please stop yanking on my collar because it's making me hard to breathe". Plaintiff told defendant Hartman his actions are unprofessional. Defendant Hartman became more negligent. Plaintiff asked defendant Saldivar politely asked if he can hold his shirt instead of defendant Hartman because he is acting unprofessional and keeps yanking Plaintiff's collar around and threatening Plaintiff trying to provoke and get a reaction out of the mentally ill Plaintiff. Defendant Saldivar asked defendant Hartman to stop trying to provoke the Plaintiff and to loosen up his grip. Defendant stated "We got this under control." Defendant Saldivar then turned his back to enter the room again. Defendant Hartman got more angry and quickly gripped Plaintiff's head with both of the defendants hands to deliberately and repeatedly slam Plaintiff's face/head/jaw as hard as the defendant could into the steel metal door. Plaintiff slightly went unconscious and was dizzy. During this a defendant intentionally pulled Plaintiff's pants and underwear down to his ankles - humiliating him. While standing up in restraints Plaintiff came back from slightly unconscienceness and noticed blood pouring down his face onto the ground and noticed he was exposed and then layed on the ground in the fetal position. Defendant Hartman then took Plaintiff's face and slammed it on the ground, stating "That's what you deserve." During those events defendants Brown, Ortega and Saldivar stood and watched and failed to intervene, and protect the Plaintiff. Plaintiff was seen by medical who took a photo of his laceration. Plaintiff suffered bruises, cuts, abrasions to his face, head, jaw, eyebrow and wrist. Plaintiff also suffered T.M.J from the misuse of force. On 1-8-13 Plaintiff was seen by Dr. Gulick who prescribed pain killer meds for his jaw. From 12-21-12 to about 1-10-13 Plaintiff was denied his property and under the impression by S.R.C.I officials who told Plaintiff because of his actions on 12-21-12 he doesn't get his property. Plaintiff never recieved a misconduct report or a disciplinary hearing prior to what he was accused of. Defendant Hartman was abusing his authority by harassing and trying to provoke Plaintiff, during those events and Plaintiff did not resist or threaten the defendants in any fashion or break any institution rules. Defendants refused to photo Plaintiff's spit blood.

Claim II

- Plaintiff's right not to be deprived life, liberty and freedom without Due Process law of the court. Pursuant to the sixth and fourteenth Amendment to the U.S. constitution and section 10 §11 of the Oregon Constitution.

Supporting Facts

- A. Between December 21, 2012 and 06-06-13 while housed at S.R.C.I Plaintiff exhausted the grievance process because of issues such as being assaulted by correctional officer. But defendant James Taylor refused to adequately review Plaintiff's grievances and hold personal responsibilities Plaintiff have listed in his grievance.

RELIEF REQUESTED VI

WHEREFORE, Plaintiff request that the court grant the following relief:

- A. Issue a declaratory judgement stating that:

1. The physical abuse of the Plaintiff by Jerial Hartman violated the Plaintiffs right under the Eighth and Fourteenth Amendment to the U.S. Constitution; Article I, Section 13 & 16 of the Oregon Constitution and constituted an assault and battery, tampering with physical evidence under state law.

2. James Taylor actions in conducting the Plaintiffs grievance Procedure violating the Plaintiffs right under the Sixth and Fourteenth Amendment to the U.S. Constitution and Article I, Section 10 & 11 of the Oregon Constitution.

3. Mark Nooth, Joe Capps, Harold Brown, William Ortega, Espiridion Saldivar, James Taylor failure to take action to curb the complaints that are address in this civil suit violated Plaintiffs rights under the Sixth, Eighth and fourteenth Amendment to the U.S. Constitution and constituted an assault and battery, tampering with physical evidence and negligence under state law.

B. Award Compensatory damages in the following amount:

1. \$20,000⁰⁰ each against defendants; Jerial Hartman, Harold Brown, William Ortega, Espiridion Saldivar, Mark Nooth and Joe Capps for the physical, mental and emotional injury sustained as a result of Plaintiffs beating.

2. \$50,000⁰⁰ against defendant; James Taylor for Punishment and emotional injury resulting from their denial of Due Process in connecting with the Plaintiffs grievance Proceedings.

C. Award Nominal damages in the following amount:

1. \$1.⁰⁰ against Jerial Hartman, Harold Brown, William Ortega, Espiridion Saldivar, James Taylor, Mark Nooth, Joe Capps for the physical, mental and emotional injury sustained as a result of the address complaints in this civil suit inflicted to the Plaintiff.

D. Award Punitive damages in the following amount:

1. \$100,000⁰⁰ jointly and severly against defendants; Jerial Hartman, Harold Brown, William Ortega, Espiridion Saldivar, Mark Nooth, Joe Capps for the physical, mental and emotional injury sustained as a result of Plaintiffs beating.

2. \$30,000⁰⁰ jointly and severly against defendant; James Taylor for the Punishment and emotional injury resulting from their denial of Due Process in connecting with the Plaintiffs grievance Proceedings.

E. Grant Such other relief as it may appear that Plaintiff is entitled.

Dated this 18th day of June, 2014.

Respectfully Submitted
Sean Coby Hoard

Sean Coby Hoard
SID# 17812791
Plaintiff, In Pro Ce Counsel.
E.O.C.I
2500 Westgate
Pendleton, OR 97801